

FEDERATION OF FUNERAL PROFESSIONALS IN SOUTHERN AFRICA

DISCIPLINARY REGULATIONS

Introduction

These Disciplinary Regulations (Regulations) provide for the commencement and administration of disciplinary proceedings against Members of the Federation of Funeral Professionals in Southern Africa (FFPSA) and matters incidental thereto. The purpose of the FFPSA's disciplinary proceedings are to:

- protect the public;
- maintain public confidence in the funeral profession; and
- to declare and uphold the highest standards of conduct amongst FFPSA Members.

The Regulations are premised on the principle of peer review whereby Member discipline is self-regulated by the FFPSA through its Members for the benefit of the public and the funeral profession.

Scope and application

The regulations set forth herein shall be binding on all Members of the FFPSA, irrespective of their category of membership, affiliation or professional designation.

Continuity

The termination or voluntary cancellation of a Member's membership shall in no way derogate from or affect the FFPSA's jurisdiction to investigate and determine, in terms of the FFPSA's Disciplinary Regulations as determined from time to time, one or more allegations of misconduct which arose prior to the date the Member's membership was terminated or voluntarily cancelled and which allegation(s) occurred while the Member was a member of the FFPSA and have not been discharged or resolved.

1. DISCIPLINARY COMMITTEE

1.1 Formation and Composition:

- 1.1.1 The Board of Directors (Board) shall annually, at the first meeting of the Board following the FFPSA's annual general meeting, appoint a Disciplinary Committee (Committee).
- 1.1.2 The Committee shall comprise three Directors of the FFPSA and two Members of the FFPSA (who are not Directors).

- (a) In the appointment of the non-director members of the Committee, the Board shall cause a call for nominations to be published to Members of the FFPSA, calling for the nomination of suitable Members to serve the Committee. The Board may from time to time determine reasonable requirements or criteria regarding the suitability of nominees.
 - (b) In the determining which Members to appoint to the Committee, the Board shall have due regard for the nominees' qualifications, experience, conduct and the requirements and criteria referred to in section 1.1.2(a) above.
 - (c) The appointment of a specific Member or Members to the Committee remain in the sole discretion of the Board, who shall exercise such discretion in prudent and reasonable manner in the best interest of the FFPSA and the funeral profession.
- 1.1.3 The Committee shall meet as often as is necessary and the scheduling, method and procedure of such Committee meetings shall be in the Committee's sole discretion, provided that the Committee meets at least four (4) times annually.
- 1.1.4 The Chairperson of the Committee shall be appointed by the Board and shall be a Director as envisaged in 1.1.2 above. The Committee shall elect a Deputy Chairperson from amongst their ranks at their first meeting.
- 1.1.5 The members of the Committee shall hold office until their successors have been successfully appointed annually.
- 1.1.6 Notwithstanding section 1.1.5, any of the Committee members shall vacate their office immediately if their membership to the FFPSA, or where applicable, their directorship with the FFPSA, is suspended, cancelled or terminated for any reason whatsoever.

1.2 Duties and Powers of the Disciplinary Committee

1.2.1 *The duties of the Committee shall be to:*

- (a) Cause disciplinary proceedings to be considered and, in appropriate cases instituted, against any Member who allegedly contravenes or has contravened any provision of the FFPSA's regulations;

- (b) Appoint a Hearing Panel for a disciplinary hearing consisting of at least three members who shall all be Members of the FFPSA;
- (c) Act as custodian of these Regulations and ensure that appropriate amendments are initiated and submitted to Board for approval as and when necessary.

1.2.2 ***The powers of the Committee shall be to:***

- (a) Investigate, or cause an investigation to be done, into any alleged contravention of any provision of the FFPSA regulations. In the course of such investigation the Committee, or any person appointed by it to conduct such investigation, may request and receive information from:
 - (i) the employer of a Member;
 - (ii) any regulatory authority with jurisdiction over the behaviour of a Member;
 - (iii) any other institute, society, association or other body with which the Member is associated in any way;
 - (iv) any other person;and disclose and make available any such information to the appointed Case-putter.
- (b) Obtain information from any person about the suitability of any Member to serve as member of a Hearing Panel or an Appeal Panel;
- (c) Obtain the necessary information and enlist the assistance of suitably qualified persons to facilitate appropriate amendments of these Regulations as and when necessary;
- (d) Require any Member of the FFPSA, and the Member or Members against whom the charges are laid to attend such disciplinary hearing;
- (e) Confer the authority to investigate the complaints or charges in order to gather evidence, to the appointed Case-putter.

2. **DISCIPLINARY PROCEEDINGS**

2.1 **Receipt of a complaint and obtaining a response:**

- 2.1.1 An interested party (complainant) shall refer a complaint to the FFPSA in writing, detailing the alleged act or acts relating to the complaint and further, as far as possible, set out any evidence in support of the complaint. The complaint must be substantially in the form of **Annexure A**, but failure to meet the format shall not invalidate the complaint.
- 2.1.2 The complainant must also, if applicable, identify any witness(es) who may be able to provide evidence in support of the complaint.
- 2.1.3 The FFPSA shall cause a written notice to be sent to a Member, notifying such member:
- (a) of receipt of a complaint against him/her/it;
 - (b) of the nature of the alleged improper conduct or contravention;
 - (c) that such Member may, within fourteen days from the date of the notice, submit a voluntary written response to the allegations;
 - (d) that such Member may choose not to respond to the allegations, in part or as a whole, but that a failure to submit a response, as set out in 2.1.3(c) above, would not preclude the continuation of disciplinary proceedings;
 - (e) that any response, as set out herein, may be applied in evidence during future disciplinary proceedings, if any.

2.2 **Adjudication of Complaint without Disciplinary Hearing:**

- 2.2.1 The FFPSA shall cause the complaint and the response thereto (if any) to be submitted to the Committee who shall consider the matter in private and on the papers only and decide whether:
- (a) to dismiss the complaint on the basis that there is no *prima facie* case of misconduct;

- (b) to set the matter down for a disciplinary hearing on the basis that the complaint is, or appears to be, of a particularly serious nature, or if it deems that it would not be appropriate to dispose of the matter by Consent Order, as set out below;
- (c) to conclude that there is a *prima facie* case of misconduct but that the misconduct is so insubstantial that it does not reasonably warrant further disciplinary proceedings;
- (d) to require further inquiries to be made, on behalf of the Committee, before it can come to a decision in the matter;
- (e) to, in its sole discretion, adjourn consideration of the complaint pending the outcome of legal proceedings, criminal investigations or settlement negotiations related to the complaint which are already underway in another forum;
- (f) on the basis that the evidence discloses a *prima facie* case of misconduct, to offer the Member a disposal of the matter by Consent Order in accordance with the provisions of section 2.2.2 below;

2.2.2 **Consent Order**

- (a) If, in the view of the Committee, a *prima facie* case of misconduct is disclosed, the Committee may elect to dispose of the matter by way of Consent Order.
- (b) The Consent Order may contain one or a combination of the following sanctions:
 - (i) An written admonishment or reprimand;
 - (ii) A monetary fine up to a maximum amount as determined by the Board from time to time;
 - (iii) A suspension of membership for a period not exceeding 12 months;
 - (iv) An order to rewrite a FFPSA's Board Examination or Competency Assessment

- (v) An order to successfully complete an approved Ethics course.
- (c) A Consent Order may, in the discretion of the Committee, also include a provision that the Member pay or contribute towards the cost of the Committee's function, up to a maximum amount as determined by the Board from time to time.
- (d) The Committee shall cause a notice to be sent to the Member detailing their decision and the terms of the Consent Order.
- (e) The notice to the Member referred to 2.2.2(d) must be substantially in the form of **Annexure B**, and must be forwarded to the Member in two (2) of the following ways:
 - (i) by electronic mail (e-mail) to the Member's e-mail address as per the records of the FFPSA; and/or
 - (ii) by registered post to the Member's postal address as per the records of the FFPSA; and/or
 - (iii) by facsimile (fax) to the Member's fax number as per the records of the FFPSA; and/or
 - (iv) by hand to the Member's business or residential address as per the records of the FFPSA;
- (f) Proof of forwarding of the notice contemplated in 2.2.2(e) above shall be:
 - (i) in the case of e-mail, a printout of the e-mail sent showing the date, address, time and annexures of the e-mail message;
 - (ii) in the case of registered post, a registered post receipt with official post office stamp or endorsement;
 - (iii) in the case of a fax, the transmission receipt of the fax detailing the date, time and receiving fax number; and
 - (iv) in the case of hand delivery, a copy of the document dated and signed by the recipient acknowledging receipt.

- (f) The Member shall be required to furnish the Committee with his/her written consent to the terms of the Consent Order within fourteen (14) days of the date of the Consent Order.
- (g) Should the Member choose not accept the terms of the Consent Order or fail to furnish his/her written consent within the prescribed period the Committee shall cause the matter to be set down for a Disciplinary Hearing and cause the Member to be notified of such hearing, in the manner set out below.
- (h) If the Member agrees to the terms of the proposed order the following steps shall be taken:
 - (i) a finding upholding the complaint is recorded and the Consent Order, applying the sanction or sanctions and/or costs proposed, is issued against the Member on behalf of the Committee.
 - (ii) if the Member, in agreeing to the proposed Consent Order, makes further substantive comments for consideration by the Committee, these shall be considered by circulation of papers and the Committee shall decide whether to proceed as set out in (a) above or to meet to re-consider the complaint.
 - (iii) a record is kept of the Consent Order and is taken into account should there be any further complaints against the Member concerned.
- (i) If a Member, having been fined and/or ordered to pay costs, fails to pay the full amount within thirty (30) days from date of the Consent Order, the Committee may cause the fine and/or costs to be recovered by due process of law in a competent court. The Member shall in such case be held liable for the costs of recovery on the scale as between attorney and client together with interest at a rate of not less than 15.5% per annum. The provisions of this clause are subject to a Member agreeing to the terms of the Consent Order, as set out in 2.2.2(f) above.

2.3 Adjudication of Complaint by way of Disciplinary Hearing

- 2.3.1 Following a determination by the Committee that the complaint is, or appears to be, of a particularly serious nature, or where the Committee deems that it would not be appropriate to dispose of the matter by Consent Order as set out above,

or where a Member does not consent to the terms of a Consent Order, the Committee shall cause the complaint to be adjudicated by way of a Disciplinary Hearing (hearing).

2.3.2 ***Preparation for hearing:***

(a) The Hearing Panel:

(i) The Committee shall cause a Hearing Panel of FFPSA Members to be appointed to adjudicate a complaint referred for hearing.

(ii) Such Hearing Panel shall consist of three Members, in good standing, who shall each have been a Member of the FFPSA for more than three years* (continually in good standing) as at the date of the hearing.

* Provided that during the first three years of the existence of the FFPSA, this requirement shall be substituted by the requirement that the Hearing Panel shall consist of Members who each have at least 10 years' experience in the profession and who are current Members in good standing as at the date of the hearing.

(iii) Members of the Board and the Committee may not be appointed as members of the Hearing Panel.

(iv) Members of the Hearing Panel may not be connect person(s) in relation to the accused Member.

(v) The Hearing Panel shall select a Chairperson from among its ranks prior to the commencement of the hearing.

(vi) The Hearing Panel may request the Committee to appoint one or more assessor(s) with relevant skill, expertise and experience to assist the Hearing Panel in considering technical, legal or evidentiary matters. The assessor(s) may attend the hearing but shall however not act as member(s) of the Hearing Panel and will not participate in any decision of the Hearing Panel.

- (vii) The Hearing Panel shall execute their adjudication function in a reasonable, fair and unbiased manner in accordance with the provisions of these Regulations and the principles of natural justice.
- (b) The Case-putter:
 - (i) The Committee shall further cause the appointment of an appropriate Case-putter who may, but need not be, a member of the FFPSA, who may not be a member of the Board or Committee and who may be a member of FFPSA staff complement.
 - (ii) The Case-putter shall formulate the charge(s) in writing and, at the hearing, adduce all evidence in support of the charge(s).
 - (iii) The Committee may, following a reasonable request from the Case-putter, appoint one or more persons to assist the Case-putter.
- (c) Notice of the Hearing:

The Case-putter shall cause the accused Member (“the accused”) to be furnished with a written notice:

- (i) informing the accused of the charge(s) against him/her;
 - (ii) requiring the accused to attend the hearing at a stated place, date and time, which may not be earlier than fourteen (14) days after the date of dispatch of the notice of hearing;
 - (iii) informing the accused that he/she must file an answering affidavit, ten (10) days prior to commencement of the hearing, which shall be used in evidence at the hearing; and
 - (iv) informing the accused that he/she may have legal representation at the hearing (at his/her own cost);
- (d) The notice to the Member referred to 2.3.2(c) must be substantially in the form of **Annexure C**, and must be forwarded to the Member in two (2) of the following ways:

- (i) by electronic mail (e-mail) to the Member's e-mail address as per the records of the FFPSA; and/or
 - (ii) by registered post to the Member's postal address as per the records of the FFPSA; and/or
 - (iii) by facsimile (fax) to the Member's fax number as per the records of the FFPSA; and/or
 - (iv) by hand to the Member's business or residential address as per the records of the FFPSA;
- (e) Proof of forwarding of the notice contemplated in 2.3.2(d) above shall be:
- (i) in the case of e-mail, a printout of the e-mail sent showing the date, address, time and annexures of the e-mail message;
 - (ii) in the case of registered post, a registered post receipt with official post office stamp or endorsement;
 - (iii) the case of a fax, the transmission receipt of the fax detailing the date, time and receiving fax number; and
 - (iv) in the case of hand delivery, a copy of the document dated and signed by the recipient acknowledging receipt.

(f) Witnesses:

Where the Case-putter and/or the accused intends to call any person as a witness at the hearing, a written notice of intention to call the such person must be given to the other party ten (10) days prior to commencement of the hearing, and the said notice must disclose the name of the witness(es) intended to be called and, in the case of an expert witness(es), the evidence the witness(es) will give.

(g) Heads of Argument:

Both the accused and the Case-putter shall file their Heads of Argument with the Hearing Panel, through the appropriate channel at the FFPSA, no less than five (5) days prior to commencement of the hearing.

2.4 Procedure at the hearing where the accused is present at the hearing:

Where the accused is present at the hearing the procedure is as follows:

- 2.4.1 The Chairperson of the Hearing Panel reads the charge(s) to the accused.
- 2.4.2 The Chairperson then asks the accused to plead by admitting or denying the charge or in the case of multiple charges, each one of such charges.
- 2.4.3 If the accused or the legal representative of the accused informs the Hearing Panel that the accused admits to the charge, or in the case of multiple charges, to all or some of the charges, the Hearing Panel may find the accused guilty on the charge(s), admitted to, without hearing evidence, or after hearing evidence, if it deems necessary.
- 2.4.4 If the accused denies the charge, or in the case of multiple charges all or some of the charges, the Hearing Panel must hear evidence pertaining to the charge(s), so denied.
- 2.4.5 If the accused refuses or fails to plead to a charge(s), the Hearing Panel shall make a note of the refusal or failure and shall enter a plea of denial to the charge(s) on behalf of the accused, and a plea so entered shall have the same effect as if it had in fact been so pleaded.
- 2.4.6 The Case-putter then states the case against the accused and adduces evidence in support of it.
- 2.4.7 No person may be questioned or examined as a witness unless that person is, at the commencement of his/her testimony, warned to tell the truth.
- 2.4.8 The accused or the legal representative of the accused shall be given the opportunity to cross-examine any witness called by the Case-putter and then the Case-putter may re-examine the witness on points raised in cross-examination.
- 2.4.9 Any member of the Hearing Panel, or an assessor through the Hearing Panel, may if he/she so deems necessary, ask any witness, any question, at any time during the course of such witness' testimony, and may re-call any witness in the interest of establishing the facts on any point or to clarify evidence testified to.

- 2.4.10 At the conclusion of the case presented by the Case-putter, the accused must be afforded the opportunity of stating his/her defence, and of adducing evidence in support of it.
- 2.4.11 If the accused's defence is contained in a written statement the statement must be read at the hearing.
- 2.4.12 The Case-putter may cross-examine an accused who has elected to give evidence, and each witness for the accused and then the accused or the legal representative of the accused may re-examine the witness on points raised in cross-examination.
- 2.4.13 If any person whose evidence may be material (in the opinion of the Hearing Panel) is not called as a witness by the Case-putter or the accused during the hearing, the Hearing Panel may at any time request that person as a witness, after it has informed both parties of the name of the witness and the expected evidence, and subject to their rights to cross-examine the witness.
- 2.4.14 Members of the Hearing Panel may, with the permission of the Chairperson, question the Case-putter and/or an accused who was elected to give evidence.
- 2.4.15 At the conclusion of the case for the accused, the Hearing Panel must, irrespective of whether the accused has adduced evidence or not, hear the address of the Case-putter on the case generally, but may hear no further evidence unless, in a special case, it deems it just to receive further evidence.
- 2.4.16 At the conclusion of the address of the Case-putter, the accused or the legal representative of the accused may address the Hearing Panel in defence. The Case-putter may not reply to such address unless:
- (a) the accused or the legal representative of the accused has adduced further evidence after the address of the case-putter, in which event the reply must be confined to matters arising from that evidence; or
 - (b) the accused or the legal representative of the accused has in the address raised any question of law, in which event the reply must be confined to the question of law so raised.

2.4.17 The Case-putter may, with the consent of the Hearing Panel, at any time withdraw any charge before a finding has been made on it, but once the accused has pleaded to a charge(s), the accused is entitled to a finding thereon.

2.4.18 The Hearing Panel may in private deliberate and decide on any point arising in connection with, or in the course of, a hearing and at the conclusion of the hearing the Hearing Panel shall deliberate in private.

2.5 Procedure at the hearing where the accused is not present at the hearing:

Where the accused Member is not present at hearing the procedure is as follows:

2.5.1 If an accused fails to attend the hearing or to be present at any resumption of it after an adjournment, the Hearing Panel may continue to deal with the matter in the absence of the accused as follows:

- (a) the Case-putter must produce proof to the Hearing Panel that the accused was duly notified of the hearing, as set out in par 2.3.2(d) and (e), or in the case of an adjournment, that the accused was reasonably aware of the recommencement of the hearing;
- (b) the Case-putter must then state its case and adduce evidence in support thereof.

2.6 Evidentiary Matters

Formal evidence must be given, upon a warning to tell the truth, and the Hearing Panel must consider and take cognisance of all written statements and other evidence produced by the parties.

2.7 Adjournment

The Hearing Panel may adjourn the a hearing at any time or place which is acceptable to both parties and failing agreement on the time and place of such adjournment, may take any decision about the time and place for the reconvening of the hearing that would be reasonable in the circumstances.

2.8 Finding and Sanction

2.8.1 The Hearing Panel must, in regard to each charge, determine whether sufficient facts have been proved on a balance of probabilities to support the charge(s), and the Chairperson shall at the conclusion of the hearing, or so soon thereafter as in as agreed upon by all parties, reconvene the hearing and announce the Hearing Panel's finding on the merits and must, if the accused is present, inform the accused of his/her/ right to appeal the finding(s) and sanction imposed by the Hearing Panel. If the accused is not present, he/she must be informed in writing of the outcome of the hearing and his/her right to appeal the finding(s) and sanction(s) imposed by the Hearing Panel in accordance with 2.8.5 below.

2.8.2 The Hearing Panel shall, in case of a finding of guilty on one or more charges hear argument in aggravation and mitigation of sanction and impose an appropriate sanction after deliberation. The sanction shall be one or a combination of the following and shall, in the case of multiple sanctions, run concurrently:

- (a) an admonishment or reprimand;
- (b) a monetary fine up to the maximum amount as determined by the Board from time to time;
- (c) a suspension of membership for a period not exceeding forty eight months with or without the successful completion of a Board Examination or Competency Assessment, as an additional condition, irrespective of the length of suspension;
- (d) an order to rewrite a Board Examination or Competency Assessment.
- (e) an order to successfully complete an approved Ethics course.
- (f) termination of membership for a period not exceeding 10 (ten) years, at the expiry of which the accused may re-apply for membership. The application will then be considered in accordance with the provisions of the Membership Regulations, as determined from time to time.
- (g) a life ban on membership

- 2.8.3 The Hearing Panel may suspend all or any part of sanction(s) for any period on any condition that it deems appropriate in the circumstances.
- 2.8.4 The Hearing Panel may deliberate *in camera* upon the sanction(s) to be imposed, and the Chairperson must at the hearing announce the sanction(s).
- 2.8.5 If the accused is not present at the hearing the Chairperson of the Hearing Panel shall cause the accused to be informed, in writing, within ten (10) days from date of finalisation of the hearing, of the finding(s) of the Hearing Panel in the same manner set out in section 2.3.2(d) and (e) above.
- 2.8.6 If a Member, having been fined, fails to pay the fine within thirty (30) days from date of the Hearing Panel's finding, the Committee may cause the fine to be recovered by due process of law in a competent court. The Member shall in such case be held liable for the costs of recovery on the scale as between attorney and client together with interest at a rate of not less than 15.5% per annum.
- 2.8.7 The provisions of clause 2.8.6 are subject to a Member's right to appeal the finding / sanction of the Hearing Panel, as set out below.
- 2.8.8 The Committee shall cause a full record of the hearing to be kept in an appropriate format or medium for a minimum period of five (5) years after the date on which the hearing ended.

2.9 Appeal

- 2.9.1 A Member (the Appellant) having been found guilty at a disciplinary hearing, or having previously consented to the terms of a Consent Order may lodge an appeal against the finding and/or sanction of the Committee/Panel to the Committee within fourteen (14) days of the date of the finding by setting out the grounds for appeal in writing and handing a copy of such document to a responsible staff member of the FFPSA its head office, or by furnishing the FFPSA with such document in another manner as may be agreed upon between the FFPSA and the Appellant.
- 2.9.2 The Committee shall study the record and the grounds for the appeal and allow or disallow an appeal within ten (10) days of receiving the documentation from the Appellant and shall cause the Appellant to be informed, in writing, accordingly.

- 2.9.3 The Committee shall be entitled to request written reasons for the conviction and/or sanction(s) from the Hearing Panel in the case of a hearing.
- 2.9.4 In the case of the Committee disallowing the appeal, the Committee shall cause the Appellant to be notified accordingly within ten (10) days and the matter will further be dealt with as if no appeal has been lodged.
- 2.9.5 Where the Committee does allow the appeal the Committee shall cause an Appeal Panel to be appointed. The Appeal Panel shall be appointed in the same manner as set out in 2.3.2(a) above provided that none of the initial Hearing Panel members (of the hearing from which the Appeal originates) nor members of the Board and/or Committee may be a member of the relevant Appeal Panel.

2.10 Appeal Hearing

- 2.10.1 The Appeal Panel shall select a Chairperson from amongst its ranks.
- 2.10.2 The Appeal Panel may request the Committee to appoint one or more assessor(s) with relevant skill, expertise and experience to assist the Appeal Panel in considering the appeal. The assessor(s) shall not act as a member of the Appeal Panel and will not participate in any decision of the Appeal Panel.
- 2.10.3 The Appeal Panel shall execute their adjudication function in a reasonable, fair and unbiased manner in accordance with the provision of these Regulations and the principles of natural justice.
- 2.10.4 The Committee shall cause a representative to be appointed to represent the FFPSA (the Respondent) at the Appeal Hearing. The provisions of 2.3.2(b)(i) shall apply to the nature of the relevant representative of the Respondent.
- 2.10.5 The Committee shall cause an Appeal Hearing to be scheduled at a time and place acceptable to both the Appellant and Respondent and failing agreement on the time and place of such Appeal Hearing, may take any decision about the time and place for the Appeal Hearing that would be reasonable in the circumstances.
- 2.10.6 Both the Appellant and Respondent shall file their Heads of Argument no less than ten (10) days prior to commencement of the Appeal Hearing.

- 2.10.7 The Appeal Panel shall hear arguments from both the Appellant and the Respondent, in that order, but shall not hear any evidence, except where:
- (a) new information becomes available and it would be impracticable, in the opinion of the Appeal Panel, to refer the matter back to a Hearing Panel; and/or
 - (b) a dispute arises as to a point of procedure followed at the original hearing, and it is not possible to ascertain from the record, in the opinion of the Appeal Panel and on a balance of probabilities, the process that the Hearing Panel followed.
- 2.10.8 The Appeal Panel shall at the Appeal Hearing decide the appeal by due consideration of the record of the original hearing and the arguments presented to it at the Appeal Hearing.
- 2.10.9 The Appeal Panel shall, in its sole discretion, have the authority to:
- (a) substitute any finding of the Hearing Panel at the original hearing with a new finding;
 - (b) impose any new sanction(s) from the competent sanction(s) in section 2.8.2;
 - (c) confirm the finding(s) and/or sanction(s) of the Hearing Panel;
 - (d) refer the matter back for a rehearing by a new Hearing Panel on all or some of the original charges.
- 2.10.10 At a hearing by a new Hearing Panel as envisaged in paragraph 2.10.9(d), the Case-putter shall not be limited to the charges brought before the original Hearing Panel.
- 2.10.11 The Committee shall cause a full record of the Appeal Hearing to be kept in an appropriate format or medium for a minimum period of five (5) years after the date on which the Appeal Hearing ended.

3. ANCILLARY HEARING MATTERS

3.1 Costs for Disciplinary and Appeal Hearings

- 3.1.1 At the conclusion of a hearing, including an appeal hearing where the Member's appeal was not upheld, the Hearing Panel / Appeal Panel may order the Member to pay contribution towards the cost of such hearing/appeal hearing up to a maximum amount as determined by the Board from time to time.
- 3.1.2 The award of costs following a hearing / appeal hearing is in the discretion of the Hearing Panel, or Appeal Panel where applicable. However, this discretion must be exercised reasonably, taking into account the circumstances of each case.
- 3.1.3 The Case-putter / the Respondent's representative shall at the hearing of all cases request costs to be awarded against Member based on the principle that a successful party is entitled to its costs and that the general membership body of the FFPSA should not be prejudiced by the transgressions of Members found to have breached FFPSA's regulations.

3.2 Publication of Findings

- 3.2.1 The findings of the Committee or Hearing Panel / Appeal Panel may be published by the FFPSA in such forum and manner as they deem appropriate subject to the following restrictions:
- (a) The finding of the Committee on a matter disposed of by Consent Order may only be published once the affected Member has accepted the terms of the Consent Order in writing, and the period for lodging an appeal has expired or the appeal was unsuccessful.
 - (b) The findings of the Hearing Panel / Appeal Panel may only be published once the period for lodging an appeal has expired or the appeal was unsuccessful.

3.3 Advice on procedure

- 3.3.1 A Hearing Panel / Appeal Panel may, if it deems it necessary, request the Committee to cause advice to be acquired regarding any procedural aspect not covered by these Regulations.

3.3.2 A Hearing Panel / Appeal Panel may apply the provisions of South African statutory or common law relating to criminal or civil procedure, or when applicable, by industrial or labour relations, where such guidance would be appropriate in informing procedural matters and supplement these Regulations.

DEFINITIONS

- Board:** shall mean the Board of Directors of the FFPSA and “Director” shall refer to a member of the FFPSA Board of Directors.
- Committee:** shall mean the FFPSA Disciplinary Committee as more fully described in this document
- Connected person(s):** shall mean any person who is deemed a connected person in terms of the Income Tax Act of 1962, as amended from time to time.
- Days:** shall mean weekdays, excluding Saturday, Sunday and those days that fall on an official Public Holiday in South Africa.
- Disciplinary Regulations:** shall mean the FFPSA’s Disciplinary Regulations, as determined from time to time, and for the purposes of this document “Regulations” shall have the same meaning.
- FFPSA:** means the Federation of Funeral Professionals in Southern Africa.
- FFPSA Regulations:** means all the rules, policies, regulations and similar documentation established under or through FFPSA’s Memorandum of Incorporation or through a decision of the FFPSA Board of Directors and shall include, but not be limited to, regulations relating to membership, professional designations, member conduct and disciplinary procedures, continuing professional development and the like, as determined from time to time.
- Interested party:** shall mean any member of the public, an association of persons, Member of the FFPSA or the FFPSA itself, who reasonably believes that he/she/it possess information or a basis of complaint which may reasonably point to misconduct on the part of a Member and which information or basis of complaint shall for the purposes of this document be referred to as “a/the complaint”
- Member(s):** means a member of the FFPSA, irrespective of their category of membership, affiliation or professional designation.
- Misconduct:** shall mean any instance of failure, on the part of a Member, to comply with one or more of the provisions of the FFPSA regulations.

COMPLAINT FORM

Name of the person lodging the complaint: _____ *If you are lodging the complaint on behalf of another, please state name of the person or entity on behalf of whom the complaint is lodged and relationship/authority.* _____

Business / Residential address: _____

Telephone number: _____ Cell Phone Number _____

Email address: _____

Name of the person/entity against whom the complaint is lodged _____

Please set out your complaint below, setting out relevant facts, dates and names. You may attach a separate page(s) if you need more space. Please attach copies of all documents supporting the complaint. Do not submit original documents.

Please note: This complaint may initiate disciplinary proceedings against the FFPSA Member. The FFPSA investigates the conduct of their Members relating to the FFPSA regulations, including the Code of Ethics and Professional Conduct Standards. The FFPSA is not able to order a defaulting member to pay any amounts for damages/losses suffered by you. We are, however, empowered to suspend or terminate a defaulting Member's membership, order the defaulting Member to pay a fine and/or to take such other action as the FFPSA Disciplinary Regulations provide for.

I CONFIRM THAT THE INFORMATION FURNISHED ON THE FORM IS, TO THE BEST OF MY KNOWLEDGE AND BELIEF, TRUE AND CORRECT.

(Signature and Date)

In the matter between:

FEDERATION OF FUNERAL PROFESSIONALS IN SOUTHERN AFRICA (FFPSA)

and

(THE RESPONDENT)

CONSENT ORDER

I, the undersigned _____ with Identity Number: _____ and FFPSA Membership Number: _____ residing at _____ hereby consent to the FFPSA Disciplinary Committee:-

- (a) finding that the conduct with which I have been charged constitutes misconduct on my behalf in my capacity as a Member of the FFPSA; and
- (b) as a result, imposing the following sanction(s):
 - (i) #
 - (ii) #
 - (iii) #
- (c) making the following cost order:-

“the Respondent is ordered to pay costs in the amount of R_____ towards the Disciplinary Committee’s function herein”

Respondent

Signed at _____ on this the _____ day of _____ 20__ by the Respondent before me, in my capacity as Commissioner of Oaths (RSA) after having satisfied myself as to the identity of the signatory and of the fact that the Respondent knows and understands the contents of this document.

Commissioner of Oaths

NOTE:

The signed and commissioned Consent Order should reach the FFPSA at _____ on or before _____.

NOTICE OF DISCIPLINARY HEARING

TO: _____ (Name and Surname)
_____ (Id/Membership Number)
_____ (Residential / Business Address)
_____ (Postal Address)
_____ (Email)
_____ (Fax)

TAKE NOTICE THAT you are hereby notified that a disciplinary hearing in terms the Federation of Funeral Professionals in Southern Africa's Disciplinary Regulations will be held at _____ on the _____ day of _____ 20____ at ___h___ where the charge(s) against you, as set out in the **charge sheet** attached hereto, will be considered.

TAKE FURTHER NOTICE THAT you are hereby required to appear at the hearing in person, and informed that you are entitled to legal representation at your own cost, and that you may adduce evidence, call and examine witnesses on your behalf, and cross-examine other witnesses.

TAKE FURTHER NOTICE THAT you must, no later than ten (10) days prior to the disciplinary hearing, file an answering affidavit, which shall be used as evidence at the disciplinary hearing, to the charge(s) against you.

TAKE FURTHER NOTICE THAT should you fail to be present at the hearing, or at the resumption of it after an adjournment, the disciplinary hearing panel may consider and deal with the charge(s) against you in your absence in accordance with the FFPSA Disciplinary Regulations. A copy of the relevant FFPSA Disciplinary Regulations is enclosed.

**For and on behalf of the
FFPSA Disciplinary Committee**

[charge sheet enclosed]